

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RANDY BLACK,
Petitioner,

v.

KVSP,
Respondent.

Case No. 21-03386 BLF (PR)

**ORDER GRANTING EXTENSION
OF TIME FOR PETITIONER TO
RESPOND TO FIRST COURT
ORDER**

Petitioner, a California state prisoner, filed a *pro se* petition for a writ of habeas corpus under 28 U.S.C. § 2254, challenging his state conviction out of San Francisco Superior Court.¹ Dkt. No. 1 at 1. On August 13, 2021, the Court screened the petition and found it was a mixed petition, containing both exhausted and unexhausted claims. Dkt. No. 9 at 3, citing *Rose v. Lundy*, 455 U.S. 509, 510 (1982). The Court directed Petitioner to file notice that he wishes to strike the unexhausted claim and proceed on the three cognizable and exhausted claims identified in the order, or in the alternative, file a motion for a stay that satisfies the factors under *Rhines v. Webber*, 544 U.S. 269 (2005). *Id.* at 3-4.

¹ This matter was reassigned to this Court on June 21, 2021, after Petitioner did not file consent to magistrate judge jurisdiction in the time provided. Dkt. Nos. 3, 5

On August 30, 2021, mail sent to Petitioner was returned with a notation on the envelope, "Inmate Refused." Dkt. No. 10 at 1. In the interest of justice, the Court shall direct the Clerk to mail another copy of the screening order to Petitioner and grant him one final opportunity to respond.

CONCLUSION

For the foregoing reasons, the Court orders as follows:

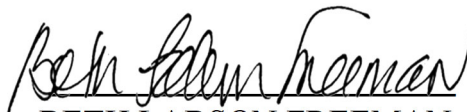
1. The Clerk shall mail a copy of this order along with a copy of the court's "Order Directing Petitioner to Either File Notice to Strike Unexhausted Claim or File Motion for Stay," Dkt. No. 9, to Petitioner.

2. Petitioner shall respond to the first court order, Dkt. No. 9, **no later than twenty-eight (28) days** from the date the instant order is filed. If Petitioner again refuses to receive court mail and it is returned to the Court, then the Court has no choice but to construe the refusal as an abandonment of this action and dismiss the matter.

3. **Failure to file a timely response in accordance with this order will result in the dismissal of the petition as a mixed petition under *Rose v. Lundy*, 455 U.S. at 510, and without further notice to Petitioner.**

IT IS SO ORDERED.

Dated: October 7, 2021


BETH LABSON FREEMAN
United States District Judge